

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
v.) Case No. 16-cr-10137-LTS
KENNETH BRISSETTE and)
TIMOTHY SULLIVAN)
_____)

DEFENDANTS' MOTION IN LIMINE
TO PRECLUDE USE OF THE TERM "CITY HALL" TO REFER GENERALLY TO
DEFENDANTS, CITY EMPLOYEES OR CITY DEPARTMENTS

Pursuant to Federal Rule of Evidence 403 and the Due Process Clause, defendants Kenneth Brissette and Timothy Sullivan (collectively, “Defendants”) move this Court *in limine* to preclude the use of the term “City Hall” and instead require the parties and witnesses to specify by name the individual(s) who took or refrained from taking the specific action at issue.

As set forth in the accompanying Memorandum in Support, requiring the parties and witnesses to specify the individual(s) to whom they refer – rather than referring generally to “City Hall” – is necessary to avoid misleading the jury and creating a false impression that is known not to be true. The government has argued repeatedly that the Defendants “threatened” Crash Line’s ability to receive the permits it needed to operate the September 2014 Boston Calling concert on City Hall Plaza in order to induce Crash Line’s consent to hire union workers. But the evidence at trial will show that neither defendant had any regulatory authority over the permits that Crash Line needed to operate the concert. The evidence will also show that neither defendant communicated with any of the individuals who did have regulatory authority over

those permits. The evidence will also show that the defendants never discussed Crash Line's permits with Crash Line's principals.

In interviews and other proceedings leading up to the indictment in this case, the government has at times allowed witnesses to blur the otherwise clear lines of permitting authority by "grouping" City Hall departments and employees together as one entity, despite the fact that Crash Line's representatives clearly knew who had regulatory authority for issuing Crash Line's permits – and that it was not the Defendants. Allowing the parties or witnesses to similarly use the term "City Hall" at trial to refer generally to the Defendants and/or others runs a significant risk of creating a false impression that the Defendants did in fact have some regulatory authority over Crash Line's permits when that is simply not true. At the very least, it would create an unacceptable risk of confusing and misleading the jury about facts that are not legitimately in dispute.

For these reasons and the reasons set forth in the accompanying Memorandum, the Court should preclude the use of the term "City Hall" to refer generally to the defendants and/or other specific individuals or Departments, and instead require the parties and witnesses to specify which individual(s) within the City of Boston took or refrained from taking the specific action at issue.

REQUEST FOR ORAL ARGUMENT

The Defendants request that the Court schedule a hearing on this Motion.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Undersigned counsel hereby certifies that the parties have conferred in an effort to narrow the issue raised by this motion.

Respectfully submitted,

KENNETH BRISSETTE,
By his attorneys,

/s/ William H. Kettlewell
/s/ Sara E. Silva
/s/ Courtney Caruso

William H. Kettlewell (BBO #270320)
Sara E. Silva (BBO #645293)
Courtney A. Caruso (BBO #687642)
HOGAN LOVELLS US LLP
100 High Street, 20th Floor
Boston, MA 02110
(617) 371-1000
(617) 371-1037 (fax)
bill.kettlewell@hoganlovells.com
sara.silva@hoganlovells.com
courtney.caruso@hoganlovells.com

TIMOTHY SULLIVAN
By his attorneys,

/s/ William J. Cintolo
/s/ Thomas R. Kiley
/s/ Meredith Fierro

William J. Cintolo (BBO #084120)
Thomas R. Kiley (BBO #271460)
Meredith Fierro (BBO#696295)
COSGROVE EISENBERG & KILEY
One International Place, Suite 1820
Boston, MA 02110
(617) 439-7775
(617) 330-8774 (fax)
wcintolo@ceklaw.net
tkiley@ceklaw.net
mfierro@ceklaw.net

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